

Decision 01-06-085 June 28, 2001

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking into the operation of interruptible load programs offered by Pacific Gas & Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company and the effect of these programs on energy prices, other demand responsiveness programs, and the reliability of the electric system.

Rulemaking 00-10-002  
(Filed October 5, 2000)

**INTERIM OPINION  
ON ESSENTIAL CUSTOMER STATUS FOR REFINERIES**

**1. Summary**

This decision amends the Priority System for Rotating Outages by adding Category N to the list of essential customers normally excluded from rotating outages. Category N is petroleum refineries, vital ancillary facilities, and other customers in the critical fuels chain of production, to the extent authorized by the Commission.

**2. Background**

On April 3, 2001, the Commission modified the list of essential customers normally exempt from a rotating outage. (Decision (D.) 01-04-006, Attachment C.) Modifications were made that might affect oil refineries and other customers in the critical fuels chain of production, potentially exposing

them in some cases to rotating outages.<sup>1</sup> Further, the Commission directed respondent utilities to coordinate electricity interruptions to fossil fuel producers, pipelines and users, to the extent feasible, thereby minimizing disruptions to public health and safety. (D.01-04-006, Ordering Paragraph 9, mimeo., page 100.) Finally, the Commission invited the California Energy Commission (CEC) to report on necessary changes, if any, in Commission interruptible tariffs or curtailment priorities to further protect public health and safety with respect to fossil fuel producers. (D.01-04-006, mimeo., pages 50-52.)

On April 25, 2001, the Energy Producers and Users Coalition (EPUC) filed an application for rehearing of D.01-04-006. EPUC alleges that the Commission erred in its modification of the essential customer list by ordering transmission level customers for the first time to be subject to rotating outages. EPUC says this change was made without due consideration of the impact on facilities engaged in the chain of production, manufacture, transportation and storage of feedstocks, gasoline, diesel fuel and aviation fuel (critical fuel customers). Further, EPUC says the Commission failed to consider the impact of outages on critical fuel customers served at the distribution level. Finally, EPUC states that implementation of an Optional Binding Mandatory Curtailment (OBMC) plan,

---

<sup>1</sup> This change did not affect oil refineries and other large customers at transmission or sub-transmission level on the Southern California Edison Company (SCE) system. Rather, SCE reported that oil refineries and other such customers were always included in SCE's rotating outage plan, unless the customer was otherwise classified as essential or exempt according to Commission definitions. According to SCE, some such customers would require special handling for operational reasons, and likely would not be used in the first hour of an outage. Nonetheless, SCE asserted that it fully intended to utilize all non-essential customers in rotating outages before any customer would be rotated off a second time. (February 22, 2001, Comments of SCE on the Energy Division Report, page 29; D.01-04-006, mimeo., page 46, footnote 21.)

and the “net electricity producer exemption,” as alternatives to mandatory curtailment for critical fuel customers were made without full and fair consideration of the viability of these options. EPUC concludes that on rehearing the Commission should exempt critical fuel customers from curtailment. At a minimum, EPUC says the Commission should exempt refineries.

On April 25, 2001, the CEC filed and served Comments Relative to Fossil Fuels and Rotating Outages. The CEC urges Commission expansion of the essential customer classification to include the entire fossil fuel infrastructure and all associated ancillary facilities. Further, the CEC recommends Commission development of an economic standard for other categories in order to allow exemption of customers for whom curtailment would spell economic disaster.

On May 24, 2001, the Commission modified the essential customer list to include Category M: “limited other customers as necessary to protect public health and safety, to the extent exempted by the Commission.” (D.01-05-089.) Further, the Commission approved and confirmed a May 21, 2001 Assigned Commissioner’s Ruling (ACR). The May 21, 2001 ACR established a process for customers to file petitions seeking Category M essential customer status, and for the Commission to consider those petitions.

On June 1, 2001, the Assigned Commissioner granted a motion for clarification of D.01-05-089 filed by EPUC. As a result, each customer in the critical fuels chain of production who believes he or she has a claim for Category M essential customer status was advised to submit a petition. At the same time, customers in the fossil fuel chain of production were advised that they may or may not eventually receive relief when the Commission acts on EPUC’s April 25, 2001 application for rehearing.

On June 7, 2001, Governor Gray Davis wrote to Commission President Loretta Lynch. Governor Davis urges that California's petroleum refineries and ancillary facilities be treated as essential customers, and therefore exempt from rotating outages. Governor Davis asks for immediate action to exempt refineries from rotating outages on the basis of public health and safety.

### **3. Discussion**

Described briefly, the critical fuels chain of production, or fossil fuel infrastructure, begins with crude oil and natural gas production. Crude oil is pumped, may be stored, and then transported by pipelines or ships to refineries. It may be stored at refineries before processing. Chemicals critical to the refining process (e.g., hydrogen) may be needed, and may be provided by ancillary facilities (e.g., pipeline from an independent company to the refinery). Refineries produce the refined fossil fuel products, including diesel fuel, gasoline, and aviation fuel. In some cases, the refined product might be stored before transport to consumers. Pipelines and trucks transport the refined products to distribution terminals, airports, and sometimes directly to end-use customers. Natural gas is processed or cleaned at the wellhead, compressed, piped, sometimes stored, and eventually sold to, and consumed by, the customer.

The Legislature has found and declared "that the petroleum industry is an essential element of the California economy and is therefore of vital importance to the health and welfare of all Californians." (Public Resources Code § 25350(a).) We are persuaded by EPUC, CEC, and the Governor that we must give careful consideration to essential customer status for customers in the critical fuels chain of production. Based on the pleadings and the Governor's June 7, 2001 letter, we are convinced that we must give immediate, interim

exemption to petroleum refineries and vital ancillary facilities. We do this for the following reasons.

According to EPUC, crude oil refineries typically schedule a total refinery shutdown only once in five years. EPUC says that reestablishing production after a sudden and unplanned disruption can take weeks. Repeated outages can cause material damage to process and equipment, according to EPUC. EPUC claims that the loss of production from a single refinery for several weeks can result in a dramatic drop in fuel inventories since there are only 13 refineries throughout California.

The CEC reports that refineries in the critical fuels chain of production are the most sensitive to curtailments of electricity. According to the CEC, a refinery curtailment lasting only a minute can result in total shutdown of the refinery for up to three weeks.

The Governor cites the CEC's Comments to the Commission in support of his request that the Commission exempt petroleum refineries and ancillary facilities. The Governor reports that current supplies of petroleum fuels are very tight, the outlook for gasoline supplies this summer is a major concern, and federal Environmental Protection Agency minimum gasoline oxygen requirements for California may result in further supply reductions, with consequential higher prices. Transportation fuels are critical to public health and safety, particularly law enforcement, medical care responders, and the military, according to the Governor. We are persuaded by EPUC, CEC and the Governor that we must act expeditiously to exempt refineries and vital ancillary facilities.

We decline, however, to provide immediate, complete exemption of all customers in the critical fuels chain of production. We do not provide immediate, global exemption because we know, for example, that storage

facilities may exist at some crude oil and natural gas production facilities. We know that some pipelines successfully participate in interruptible programs with interruptions up to 6 hours. (Reporter's Transcript, Volume 3, pages 285-286.) We know that storage facilities at some refineries can store crude oil coming in, and refined products going out, and accommodate variations in supply and demand. As a result, successful participation in interruptible programs, along with storage facilities, can permit some customers in the critical fuels chain of production to weather periodic, limited electricity interruptions without causing harm to themselves, the broader public health and safety, or the California economy.

Similarly, utilities are under our direction to coordinate electricity interruptions affecting customers in the critical fuels chain of production to minimize disruptions to public health and safety, to the extent feasible. The coordination is not limited to one rotating outage block. We are informed that at least one respondent utility encourages customers in the critical fuels chain of production to identify specific accounts to expedite coordination of interruptions. (E.g., May 10, 2001 Response of SCE to Application for Rehearing, page 9.) Interruptions can have ripple effects throughout the chain of production, but, if coordinated, harm to the customer, general public, and the California economy can be prevented.

A unique situation led to our waiving penalties for two pipeline utilities in January 2001. (D.01-01-056.) That situation involved numerous, sequential, cumulative requests for interruption under interruptible tariffs totaling up to nearly 24 hours each day for several days. That situation is unlikely to be similar to scheduled, sequential rotating outages through many different blocks of customers. Rotating outages are intended to be less than two hours per block,

rotating through numerous blocks before returning to the first block for another forced outage, if needed.

EPUC asks that we exclude pipelines on firm service schedules carrying refined petroleum products to airports. EPUC fails to convince us that this is necessary, however, given storage facilities at airports, successful participation by some pipelines in interruptible programs, utility coordination of electricity interruptions of customers in the critical fuels chain of production, and the probable dissimilarity of rotating outages to the experience in January 2001.

We must carefully balance competing interests when providing exemptions from rotating outages. Every additional exemption reduces the pool of customers from which to draw for rotating outages. The potential frequency and duration of rotating outages experienced by remaining customers is increased as the pool of candidate customers is reduced. Maintenance of a reasonable pool of customers available for rotating outages is vital to have rotating outages as a tool in protecting the state from widespread system collapse when demand otherwise exceeds supply.

We previously determined that each utility must maintain at least 40% of its load available for rotating outages to avoid involuntary load shedding and general system collapse. (D.82-06-021.) We apply the same criterion today. (D.01-04-006, mimeo., pages 8-9, 65.) SCE reports that, if asked to provide evidence on the effect of exempting circuits serving all of EPUC's constituents, such exemptions would erode SCE's load available for rotating outages to well below the current 40% minimum criterion. (May 10, 2001 Response of SCE to

Application for Rehearing of D.01-04-006, page 3 and footnote 5.<sup>2</sup>) SCE further reports that a subset of this group might be exempted with significantly less impact on the amount of load available for rotation. As a result, we do not simply exclude all customers in the critical fuels chain of production without further information.

Nonetheless, based on the pleadings and the urgent request of the Governor, we immediately provide essential customer status normally excluded from rotating outages for petroleum refineries and vital ancillary facilities. We do this by adding Category N to the list of essential customers. (See Attachment A.)

SCE asks that the customers be clearly and objectively defined to promote accurate and expeditious implementation of any necessary system changes. (May 10, 2001, Response of SCE to Application for Rehearing of D.01-04-006, page 4.) In particular, SCE asserts that EPUC's definition is vague and subjective. SCE proposes the use of SIC Codes.<sup>3</sup>

We generally agree, and consider limiting refineries in Category N to SIC Code 2911 (petroleum refining). We are persuaded by CEC, however, that SIC Code 2911 may be over-inclusive.

---

<sup>2</sup> SCE states that this is based on defining EPUC's constituents as those meeting the following Standard Industrial Classification (SIC) Codes: 2911 (petroleum refining), 1311 (crude petroleum and natural gas), 4600 (pipelines, except natural gas), and 4920 (gas production and distribution).

<sup>3</sup> Pacific Gas & Electric Company (PG&E) makes the same point, also recommending the use of SIC Codes to facilitate prompt and accurate implementation of any expansion to essential customer categories. (PG&E May 23, 2001 Response to Petitions for Modification of D.01-04-006 To Expand the Essential Customer Criteria Established, page 4.)

CEC proposes that petroleum refining facilities qualify only if they are on firm service receiving electricity at transmission level, or distribution level on rotating outage block 50, and those in block 50 should not be removed. Further, CEC proposes that petroleum refineries be defined as “those facilities that separate or alter the components in crude oil and convert them into usable fuels or feedstock for further processing.”

We adopt CEC’s proposed definition with minor changes. CEC has statutory responsibilities with respect to petroleum products. (E.g., Public Resources Code § 25216(a), cited by CEC in its June 20, 2001 Comments on the Draft Decision (DD), page 2.) CEC states that its recommendations are developed with a view toward identifying the narrowest list of exemptions that will protect the State’s critical fuel supply. We are persuaded that the CEC has achieved this goal, while assisting the Commission meet our goal of maintaining a reasonable pool of customers available for rotating outage. We change the definition slightly to generally refer to blocks exempt from rotating outage.<sup>4</sup>

CEC proposes that the most precise way to identify facilities is to name them, and presents a list of facilities meeting its definition. We decline to make our decision on the basis of naming specific facilities. As CEC points out, new facilities may begin operations, others may change ownership, and some may go out of business. Utilities are in the best position to quickly apply the criteria we adopt here to changing circumstances. Either the utility or a customer may seek

---

<sup>4</sup> We understand block 50 to be a PG&E block. This particular block number may or may not apply to other utilities.

Commission guidance in a particular case, and, if necessary, may file the appropriate pleading.<sup>5</sup>

Based on our adopted definition, we concur with CEC that its list of refineries (Attachment A to CEC's June 20, 2001 Comments on the DD) is the correct list of customers for Category N status at this time, with one limited modification proposed by EPUC noted below. The adopted CEC list includes 146 megawatts (MWs) in PG&E's service area, and 128 MW in SCE's service area.

We also include two other facilities identified by CEC: the San Joaquin and Lunday Thagard petroleum refineries. (Attachment C, June 20, 2001 Comments of CEC.) CEC says that these facilities are neither served at transmission level, nor distribution level on a block exempt from rotating outage. Therefore, they do not meet CEC's precise proposed definition. Nonetheless, CEC says both are refineries which would otherwise meet CEC's proposed definition. According to CEC, both plants produce unfinished oils for other California refineries, thereby allowing for the increased production of gasoline and diesel fuel. Loss of either of these two refineries due to rotating outage would result in decreased supply of unfinished oils, and could jeopardize the critical fuel chain of production. We are persuaded to include these two plants as refineries.

---

<sup>5</sup> For example, a refinery denied Category N status may file a complaint with the Commission. A utility may file an application or other pleading seeking clarification regarding inclusion of a particular customer in Category N. In recommending that the Commission decision name specific facilities, the CEC recommends that the Commission's Energy Division (ED), in consultation with CEC, make future changes to the list. We decline to delegate this authority, in consultation with CEC, to ED. We note, however, that utilities and customers may consult with ED and CEC in application of Category N status, and encourage that consultation before the filing of a formal pleading with the Commission.

CEC also proposes a similar definition for vital ancillary facilities. CEC proposes that vital ancillary facilities qualify only if they are on firm service receiving electricity at transmission level, or distribution level on rotating outage block 50, and those in block 50 should not be removed. Further, CEC proposes that vital ancillary facilities be defined as “those facilities that if curtailed during a rotating outage, would cause one or more petroleum refineries to significantly curtail production, or initiate a controlled shutdown or initiate an emergency shutdown of refinery operations.” EPUC agrees with CEC’s proposed definition. We adopt CEC’s proposed definition with slight modification, for the same reasons stated above.

PG&E proposes that each ancillary facility individually file its own application with the Commission, including a supporting declaration. PG&E asserts that utilities are not in a position to evaluate whether or not ancillary facilities are vital to the operation of a petroleum refinery. Each refinery design and resulting operational requirements determine which ancillary facilities are and are not vital, according to PG&E. PG&E says utilities simply lack expertise to make this determination. PG&E recommends that ED review each application and make a final determination based on authority delegated by the Commission, or the matter be referred to the full Commission. SCE agrees.

We decline to adopt PG&E’s recommendation. Just as we generally do when we define customers, and as we do here for Category N, we adopt criteria which utilities can and do implement in the course of conducting their business. Utilities are in the best position to quickly apply the adopted criteria to changing circumstances. Either the utility or a customer may seek Commission guidance in a particular case, and, if necessary, may file the appropriate pleading.

Based on our adopted definition, we concur with CEC that its list of vital ancillary facilities in Attachment B to its June 20, 2001 Comments on the DD is the correct list of customers for Category N status at this time, with one limited modification proposed by EPUC. The adopted CEC list includes 19 MWs in SCE's service area.

EPUC states that the Commission should rely on CEC's informed recommendations, with two modifications. First, EPUC states that the Equilon Sulfur Plant in Wilmington should be included as a refinery. We agree.<sup>6</sup> As EPUC asserts, this particular sulfur plant is an integral and necessary part of, and not ancillary to, Equilon's refinery itself. EPUC points out that the refinery is generally served by Los Angeles Department of Water and Power, while the sulfur plant portion of the refinery is served by SCE. No party asserts otherwise. We agree with EPUC that these circumstances should not affect the inclusion of the Equilon sulfur plant as a refinery in Category N. This adds less than 8 MW to the refinery category in SCE's service area (based on CEC's total of 8 MW for three plants in Attachment C to its June 20, 2001 Comments on the DD).<sup>7</sup>

Second, EPUC recommends that two facilities belonging to Valero Refining Company—California be included as vital ancillary facilities.<sup>8</sup> In

---

<sup>6</sup> This plant is also in CEC's Attachment C to its June 20, 2001 Comments on the DD.

<sup>7</sup> We might consider categorizing the sulfur plant as a vital ancillary facility rather than a refinery. The result, however, is the same. That is, either way, the facility is entitled to Category N status. We note that CEC includes an asphalt plant in the list of refineries.

<sup>8</sup> EPUC refers to these as two facilities. (EPUC June 22, 2001 Reply Comments on the DD, page 1.) These facilities are listed in Appendix B of EPUC's June 20, 2001 Comments on the DD (filed with a concurrent motion for receipt under seal).

particular, EPUC says these are facilities vital to the refinery operation's dependence on raw water. Loss of raw water will immediately trigger shut down activities for this refinery, according to EPUC. No party argues otherwise. We include these two facilities as vital ancillary facilities to the extent they involve Valero's dependence on raw water.

Appendix B to this order summarizes the customers initially included in Category N. The list represents about 300 MW of total peak load purchased from the grid.<sup>9</sup> Respondent utilities shall apply the adopted criteria, administer Category N, and make changes as conditions warrant, subject to Commission guidance, as described above.

SCE also asks that we clarify whether or not backup generation should be considered by the utility in applying any exemptions granted here. That is, each utility is under our direction to evaluate the adequacy of standby generating equipment, and consider removing customers with adequate backup generation from the essential customer list. (D.82-06-021 (June 2, 1982), Cal.PUC LEXIS 537, Findings of Fact 2 and 3; Assigned Commissioner's Ruling March 23, 2001, approved and confirmed in D.01-04-006, mimeo., page 65.) We recently eliminated this test for hospitals, finding that backup or standby generation required by Office of Statewide Health Planning and Development regulation does not satisfy Commission requirements for minimal essential uses for hospitals. (D.01-04-006, mimeo., page 65.) SCE asks that we explicitly state whether or not refineries and other customers exempted here, if any, should

---

<sup>9</sup> The net effect on the rotating outage pool, however, is less than 300 MW, since some of these customers are currently on exempt circuits.

nonetheless be entitled to unqualified exemption even if they have adequate standby generation.

We clarify that refineries and other customers included in Category N are not entitled to unqualified exemption if they have adequate generation. EPUC provided customer data at the direction the Administrative Law Judge. EPUC concludes that at least one customer does not need a Category N exemption since that customer has adequate generation of its own. CEC similarly does not include this customer in its recommended list. We understand that CEC's recommended list takes a customer's own generation capabilities into account in meeting the State's critical fuel needs. EPUC and others generally agree with CEC's list.

Therefore, we are confident that the CEC list of refineries and vital ancillary facilities we endorse here, as modified by EPUC's two recommendations, properly takes into account backup, standby, cogeneration and self-generation.<sup>10</sup> While we eliminated the test of adequate backup or standby generation for hospitals, we do not do so for Category N candidates.

Data may later be collected, or a pleading filed, on whether or not essential customer status should be provided to any other customers in the critical fuels chain of production. We will address the matter further as necessary. We include within Category N the possibility that we may add other customers in the critical fuels chain of production by further order.

---

<sup>10</sup> Parties generally state in comments and reply comments on the draft decision that backup, standby, cogeneration, and self-generation may be, or are, each different. We do not differentiate here. Our concern is whether or not the customer can use some combination of generation that it owns or controls to meet its needs during a rotating outage.

#### **4. Need for Expedited Consideration**

Rule 77.7(f)(9) of the Commission's Rules of Practice and Procedure provides in relevant part that:

“...the Commission may reduce or waive the period for public review and comment under this rule...for a decision where the Commission determines, on the motion of a party or on its own motion, that public necessity requires reduction or waiver of the 30-day period for public review and comment. For purposes of this subsection, "public necessity" refers to circumstances in which the public interest in the Commission adopting a decision before expiration of the 30-day review and comment period clearly outweighs the public interest in having the full 30-day period for review and comment. "Public necessity" includes, without limitation, circumstances where failure to adopt a decision before expiration of the 30-day review and comment period...would cause significant harm to public health or welfare. When acting pursuant to this subsection, the Commission will provide such reduced period for public review and comment as is consistent with the public necessity requiring reduction or waiver.”

We balance the public interest in quickly amending D.01-04-006 to provide essential customer status to petroleum refineries and vital ancillary facilities against the public interest in having a full 30-day comment cycle on the proposed amendment. We conclude that the former outweighs the latter. We agree with the Governor that this status should be provided as quickly as possible. Time for action is short as Summer 2001 begins. Delay in adopting this amendment jeopardizes public welfare by increasing the risk of shortages in critical petroleum fuel products. We seek valuable public review of, and comment on, our proposed change, and find that a reduced period balances the need for that input with the need for timely action.

## **5. Comments on Draft Decision**

On June 13, 2001, the DD of Presiding Officer and Assigned Commissioner Wood on this matter was mailed to parties in accordance with Section 311(g)(3) of the Public Utilities Code and Rule 77.7 of the Rules of Practice and Procedure. Comments were filed and served on June 20, 2001 by PG&E, SCE, San Diego Gas & Electric Company, CEC, EPUC, and jointly by the California Independent Petroleum Association and the Independent Oil Producers Agency (CIPA). Reply comments were filed and served on June 22, 2001 by PG&E, SCE and EPUC, and on June 25, 2001 by CEC.<sup>11</sup>

We decline to adopt some proposals made by parties in comments on the DD. For example, CIPA says its members are oil producers not classified within SIC Code 2911, but are included in SIC Code 1311 (oil producers). CIPA says its members operate ancillary facilities vital to SIC Code 2911 by providing “feedstock” raw material. Many CIPA members participate in interruptible programs, according to CIPA. CIPA recommends including SIC Code 1311 in Category N, limited to oil producers not on interruptible rate schedules.

We decline to adopt CIPA’s recommendation. As PG&E and SCE say, CIPA provides insufficient information to conclude that firm load SIC Code 1311 facilities cannot be involved in a periodic, limited rotating outage without causing the critical fuels chain of production to collapse. For example, CIPA does not address the extent to which storage or pipeline capacity might mitigate the impact of a rotating outage of less than two hours. Moreover, even if storage cannot alleviate the adverse effects in some cases, there is no indication that

---

<sup>11</sup> CEC’s motion for leave to file late is granted.

exempt refineries, and California generally, will be harmed unless exemption is granted to all firm load SIC Code 1311 oil producers.

Most importantly, the CEC has followed its statutory duty, and proposed a narrow list that fulfills the CEC's responsibility to protect the State's critical fuel supply. The CEC does not recommend Category N status for oil producers, and we are not persuaded by CIPA to do so.

EPUC recommends that disruption in delivery of aviation fuel to airports be addressed in two ways. First, EPUC recommends that we direct utilities to coordinate the rotating outage blocks of pipeline customers. We have already made that order. (Ordering Paragraph 9, D.01-04-006.) That is, respondent utilities must reasonably coordinate interruptions, to the extent feasible, between producers, pipelines and users to minimize any disruption to public health and safety. This direction is for the entire critical fuels chain of production, and is not only between segments (e.g., production and use), but also within segments (e.g., pipelines).

PG&E and SCE affirm that they are observing this order. Reassigning outage blocks and coordinating interruptions, however, is not necessarily a trivial task. It may involve many customers and circuits. Nonetheless, respondent utilities must make reasonable efforts to coordinate interruptions to minimize adverse effects on public health and safety. A customer may file a complaint if the customer believes its utility is not complying with our order.

Second, EPUC recommends that we direct utilities to limit curtailments of any portion of service to pipelines that carry refined petroleum products to no more than 90 minutes per day. We decline to make this order. We agree with PG&E that limiting any customer to a single 90-minute outage per day is operationally and administratively difficult for utilities. Except for manual

systems, PG&E does not have systems in place to withdraw circuits from outage pools for limited times. Circuits are either exempt from outage or they are not. We are not convinced that a separate 90-minute per day limitation is necessary when utilities are already directed to coordinate interruptions to minimize adverse effects. Moreover, EPUC provides insufficient information to show that airport storage facilities cannot survive an outage of more than 90 minutes in pipeline delivery per day, but where those outages are still within reasonably expected numbers of events and hours per day associated with rotating outages.<sup>12</sup>

EPUC also recommends two changes to the OBMC program as an interim alternative to complete exemption for other non-refinery facilities in the critical fuels chain of production. We decline to make these changes.

EPUC's recommendations generally involve allowing customers to trade the frequency and duration of outages. As PG&E observes, EPUC's proposals are not modest changes, but in many respects involve a completely different program. For example, EPUC's first proposal is that critical fuels customers whose operations are threatened by the frequency of curtailment under OBMC be permitted to elect a longer curtailment period in exchange for fewer curtailment events. EPUC says a customer may elect to curtail fully for 6 hours, rather than one hour, in exchange for reducing the frequency of curtailment to once every six full rotations.

---

<sup>12</sup> That is, rotating outages will likely occur for less than 2 hours per event, and rotate through many blocks before a customer is subject to another rotating outage. This is in contrast to the much longer duration of outages in January 2001 due to operation of the interruptible program.

This option does not take into account that many events to date have been of short duration. Thus, EPUC's proposal would be of questionable net benefit to the system. Further, the proposal fails to account for the impact on other customers served by the same circuit. EPUC says transmission level customers will be responsible for their own curtailments, and need not coordinate with other customers. The administrative burdens, however, are not sufficiently addressed, particularly for distribution level customers. Finally, the net benefit to the system of allowing a longer curtailment in exchange for exemption from being called for curtailment for up to six full rotations is unclear. This is a major change in the concept of the OBMC program, and requires more development before it can be adopted.

EPUC's second proposal is for customers threatened by a full curtailment during a rotating outage. EPUC proposes that the customer be permitted under a modified OBMC to reduce electricity consumption by less than 100 percent of its load for longer periods. For example, EPUC says a customer may elect to curtail 15 percent of its load for seven hours rather than 100 percent for one hour.

As PG&E and SCE point out, this confuses individual customer responses with responses on the circuit. The OBMC program is designed at the circuit level to achieve a specific reduction during Stage 3 curtailment events. EPUC inadequately explains how its proposal matches with the basic concept of OBMC.

EPUC urges these changes to minimize disruptions in the critical fuels chain of production while permitting broader participation. These goals are reasonable. The proposals, however, are not sufficiently well developed, and the net benefit to the system is not sufficiently explained, to justify their adoption at this time.

## **Findings of Fact**

1. An electricity curtailment lasting only a minute at a petroleum refinery can result in total shutdown of the refinery for up to three weeks.

2. The loss of production from a single refinery for several weeks can result in a dramatic drop in fuel inventories in California, and a substantial price increase.

3. Oil refineries are the most sensitive of all customers in the critical fuels chain of production to electricity curtailments.

4. The Governor urges that the Commission exempt petroleum refineries and ancillary facilities from rotating outage without delay.

5. Current supplies of petroleum fuels are very tight, the outlook for gasoline supplies this summer is a major concern, and federal Environmental Protection Agency minimum gasoline oxygen requirements for California may result in further supply reductions, with consequential higher prices.

6. Storage facilities may exist at some crude oil and natural gas production facilities, as well as at refineries for crude product coming in and refined product going out.

7. Some pipelines successfully participate in interruptible programs with interruptions up to 6 hours.

8. Successful participation in interruptible programs, along with storage facilities, can permit some customers in the critical fuels chain of production to weather periodic, limited electricity interruptions without causing harm to themselves, the broader public health and safety, or the California economy.

9. Utilities are under Commission direction to coordinate electricity interruptions affecting customers in the critical fuels chain of production to minimize disruptions to public health and safety, to the extent feasible, with that

coordination not limited to one rotating outage block, and with that coordination not only between segments, but also within segments of the critical fuels chain of production.

10. The situation that led the Commission to waive penalties for two utility pipelines in January 2001 due to cumulative interruptions of up to nearly 24 hours per day for several days is unlikely to be similar to scheduled, sequential rotating outages of less than two hours through many different blocks of customers.

11. Every additional exemption reduces the pool of customers from which to draw for rotating outages.

12. The potential frequency and duration of rotating outages experienced by remaining customers is increased as the pool of candidate customers is reduced.

13. Maintenance of a reasonable pool of customers available for rotating outages is vital to have rotating outages as a tool in protecting the state from widespread system collapse when demand otherwise exceeds supply.

14. Each utility must maintain at least 40% of its load available for rotating outages to avoid the danger of involuntary load shedding and general system collapse.

15. SCE reports that, if asked to provide such evidence, exempting all circuits serving all of EPUC constituents would erode SCE's load available for rotating outages to well below the current 40% minimum criterion.

16. Clear and objective identification of any customers to be exempted within the critical fuels chain of production will promote accurate and expeditious implementation of any exemption order.

17. SIC Code 2911 is over-inclusive.

18. The CEC proposes a definition of refineries and vital ancillary facilities that produces the narrowest exemption list while at the same time protecting the State's critical fuel supply.

19. The CEC list of refineries and vital ancillary facilities (Attachments A, B, and C to CEC's June 20, 2001 Comments on the DD) identifies facilities consistent with our adopted definition of facilities qualifying for Category N status at this time, with two exceptions.

20. The Equilon Sulfur Plant in Wilmington is part of the Equilon refinery.

21. Two facilities delivering raw water to the Valero Refining Company—California are vital ancillary facilities.

22. Each utility is under Commission direction to evaluate the adequacy of backup generation, and consider removing customers with adequate backup generation from the essential customer list, with the exception of hospitals.

23. The CEC's recommended list of Category N facilities includes an assessment of the customer's own generation capabilities, and excludes customers capable of meeting their own needs in a rotating outage.

24. The CEC's recommended list of Category N facilities does not include oil producers.

25. The public interest in quickly amending D.01-04-006 to provide essential customer status for petroleum refineries and vital ancillary facilities outweighs the public interest in a full 30-day public review and comment of the proposed amendment.

### **Conclusions of Law**

1. The Priority System for Rotating Outages should be amended by adding Category N to the list of essential customers normally excluded from rotating outages.

2. Category N should include petroleum refineries, vital ancillary facilities, and other customers, to the extent exempted by the Commission.

3. Petroleum refineries should be defined as facilities that separate or alter the components in crude oil, and convert the components into usable fuels or feedstock for further processing.

4. Vital ancillary facilities should be defined as facilities that, if curtailed during a rotating outage, would cause one or more petroleum refineries to significantly curtail production, initiate a controlled shutdown, or initiate an emergency shutdown.

5. Eligible refineries and vital ancillary facilities should be customers of firm electricity service, served at transmission level, or served at distribution level in an outage block exempt from rotating outages.

6. Category N facilities should be the fewest necessary to protect the State's critical fuel supply in order to also maintain as large a pool of customers as possible from which to draw for rotating outages.

7. The CEC list of refineries and vital ancillary facilities (Attachments A, B, and C to CEC's June 20, 2001 Comments on the DD) should be used by respondent utilities to identify facilities that qualify for Category N status at this time, with two exceptions.

8. The Equilon Sulfur Plant in Wilmington should be included as a refinery.

9. Two facilities delivering raw water to the Valero Refining Company—California should be included as vital ancillary facilities.

10. Utilities should administer the definitions adopted in Category N as conditions change over time, with utilities and customers consulting with the Commission and CEC as necessary, and with the utility or customer filing a formal pleading as necessary.

11. Customers in Category N should not be exempt from the utility evaluating whether or not customers have adequate backup, standby, cogeneration, or self-generation, and considering removal of these customers from the essential customer list.

12. EPUC recommendations for electricity service to pipelines delivering aviation fuels, and changes to OBMC, should not be adopted at this time.

13. The period for public review and comment on the draft decision should be reduced, pursuant to Rule 77.7(f)(9).

14. This order should be effective today so that essential customer status for petroleum refineries and vital ancillary facilities can be implemented without delay, and potential threat to public welfare by shortages in critical petroleum products can be mitigated.

## **INTERIM ORDER**

### **IT IS ORDERED** that:

1. The Priority System for Rotating Outages is amended to add Category N to the list of essential customers normally excluded from rotating outages. The amended Priority System is contained in Attachment A. Category N is:

“N. Petroleum refineries, vital ancillary facilities, and other customers in the critical fuels chain of production, to the extent exempted by the Commission. Petroleum refineries are facilities that separate or alter the components in crude oil, and convert the components into usable fuels or feedstock for further processing. Vital ancillary facilities are facilities that, if curtailed during a rotating outage, would cause one or more petroleum refineries to significantly curtail production, initiate a controlled shutdown, or initiate an emergency shutdown. Eligible refineries and vital ancillary facilities must be firm electricity service customers served at transmission level, or

served at distribution level in an outage block exempt from rotating outages.”

2. Category N shall initially include the customers identified by the California Energy Commission (Attachments A, B, and C to its June 20, 2001 Comments on the Draft Decision), including the Equilon Sulfur Plant in Wilmington, and two facilities delivering raw water to the Valero Refining Company—California. These customers are summarized in Appendix B to this order. Respondent utilities shall administer changes to the list of customers included in Category N as conditions warrant, consistent with the entirety of this decision.

This order is effective today.

Dated June 28, 2001, at San Francisco, California.

LORETTA M. LYNCH

President

HENRY M. DUQUE

RICHARD A. BILAS

CARL W. WOOD

GEOFFREY F. BROWN

Commissioners

## **APPENDIX A**

Page 1

### **PRIORITY SYSTEM FOR ROTATING OUTAGES**

#### **1. Essential Customers – Normally Exempt from Rotating Outages**

- A. Government and other agencies providing essential fire, police, and prison services.
- B. Government agencies essential to the national defense.
- C. Hospitals.
- D. Communication utilities, as they relate to public health, welfare and security, including telephones.
- E. Navigation communication, traffic control, and landing and departure facilities for commercial air and sea operations.
- F. Electric utility facilities and supporting fuel and fuel transportation services critical to continuity of electric power system operation.
- G. Radio and television broadcasting stations used for broadcasting emergency messages, instructions, and other public information related to the electric curtailment emergency.
- H. Water and sewage treatment utilities may request partial or complete rotating outage exemption from electric utilities in times of emergency identified as requiring their service, such as fire fighting.
- I. Areas served by networks, at serving utility's discretion.
- J. Rail rapid transit systems as necessary to protect public safety, to the extent exempted by the Commission.
- K. Customers served at transmission voltages to the extent that (a) they supply power to the grid in excess of their load at the time of the rotating outage, or (b) their inclusion in rotating outages would jeopardize system integrity.
- L. Optional Binding Mandatory Curtailment Program (OBMC): Any customer, or customers, meeting the following criteria.

## **APPENDIX A**

### **Page 2**

The customer must file an acceptable binding energy and load curtailment plan with the utility. The customer must agree to curtail electric use on the entire circuit by the amount being achieved via rotating outages. The customer's plan must show how reduction on the entire circuit can be achieved in 5 percent increments to the 15 percent level, and show how compliance can be monitored and enforced. The customer must maintain the required reduction during the entire rotating outage period. The required curtailment level is requested prior to commencement of Stage 3. Several customers on a circuit may file a joint binding plan to guarantee the required curtailment from the entire circuit. Each utility shall facilitate communication between customers on a circuit if any customer expresses interest in enrolling in the OBMC program.

Note: Protection cannot be guaranteed because daily circuit switching may temporarily change a customer's outage block and priority classification.

- M. Limited other customers as necessary to protect public health and safety, to the extent exempted by the Commission.
- N. Petroleum refineries, vital ancillary facilities, and other customers in the critical fuels chain of production, to the extent exempted by the Commission. Petroleum refineries are facilities that separate or alter the components in crude oil, and convert the components into usable fuels or feedstock for further processing. Vital ancillary facilities are facilities that, if curtailed during a rotating outage, would cause one or more petroleum refineries to significantly curtail production, initiate a controlled shutdown, or initiate an emergency shutdown. Eligible refineries and vital ancillary facilities must be firm electricity service customers served at transmission level, or served at distribution level in an outage block exempt from rotating outages.

## **APPENDIX A**

Page 3

### **2. Outage Notification**

#### **A. Life Support and Critical Care**

Life support and critical care customers shall be notified by recorded or other message of a rotating outage to which they will be affected. The call is not required until a rotating outage is imminent. Utilities must undertake their best efforts to inform these customers.

#### **B. Large Customers, Economic Damage Customers, and Danger to Health and Safety**

As circumstances permit, individual warning of rotating outages will be given to large customers having demand of 300 kW or more. It will also be given to other customers upon their showing to the utility of major economic damage, or clear and imminent danger to personal health or safety. Individual timely warning can not be guaranteed, however, because of time, manpower, or communication limits, or due to daily circuit switching which may temporarily change a customer's outage block number.

#### **C. All Other Customers**

Warning and other relevant information may be provided by mass media, with no special treatment or individual notification generally given.

**(END OF APPENDIX A)**

**APPENDIX B****INITIAL CUSTOMERS IN CATEGORY N**

## Petroleum Refineries

<b>Line No</b>	<b>Refinery</b>	<b>Location</b>	<b>Service Territory</b>
1	Chevron	Richmond	PG&E
2	Equilon	Bakersfield	PG&E
3	Equilon	Martinez	PG&E
4	Golden Bear	Bakersfield	PG&E
5	Kern Oil and Refining	Bakersfield	PG&E
6	Tosco	Rodeo	PG&E
7	Tosco	Santa Maria	PG&E
8	Valero	Benicia	PG&E
9	Valero Asphalt Plant	Benicia	PG&E
10	San Joaquin	Oildale	PG&E
11	Chevron	El Segundo	SCE
12	ExxonMobil	Torrance	SCE
13	Tenby	Oxnard	SCE
14	Tosco	Carson	SCE
15	Lunday Thagard	Southgate	SCE
16	Equilon Sulfur Plant	Wilmington	SCE

## Vital Ancillary Facilities

<b>Line No</b>	<b>Vital Ancillary Facility</b>	<b>Location</b>	<b>Service Territory</b>
1	Air Products –Hydrogen Plant	Carson	SCE
2	ARCO – Polypropylene Plant	Carson	SCE
3	Two Raw Water Facilities for Valero Refining Company—California		

**(END OF APPENDIX B)**